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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,046	09/26/2003	David M. Gravett	110129.430	8047

41551 7590 04/11/2007
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
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EXAMINER

FUBARA, BLESSING M

ART UNIT	PAPER NUMBER
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1618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/673,046

Applicant(s)

GRAVETT ET AL.

Examiner

Blessing M. Fubara

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-231 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 15, 18-20, 22-25, 28-66, 70, 71 and 73-231 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-14, 16, 17, 21, 26, 27, 67-69 and 72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/19/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

Examiner acknowledges receipt of IDS filed 12/19/06. The examiner further acknowledges receipt of the response to the election/restriction requirement of 10/26/06.

Election/Restrictions

Applicant's election with traverse of Group I, claims 1-93, in the reply filed on 10/26/06 is acknowledged. The traversal is on the ground(s) that requiring election of species based on the BAB or ABA or alginate or chitosan or polyurethane or hyaluronic acid or polyhydroxyethylmethacrylate is improper because claim 17 is generic to the species found in claims 20-54. This is not found persuasive because claim 20 is a film, claim 21 is a wrap, claim 22 is a gel, claim 23 is a foam, claim 24 is a mold and claim 25 is a coating. The search for these different species in separate claims is a burden on the search and consideration process. Applicant elected single layer mesh (claim 9), wrap (claim 21), poly(D,L-lactide) as the polyester polymeric carrier (claims 17, 34, 35, 37), paclitaxel as the anti-angiogenic agent (claims 67, 69). However, applicant identified claims 1-4, 8-14, 16, 17, 21, 26, 27, 34-41, 65-69 and 72 as the claims that read on the elected species. However, Claims 65 and 66 are a device having a weft and a warp and applicant has elected a mesh wrap. Claims 34-41 is also not examined because applicant did not elect a block polymer.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 8-14, 16, 17, 21, 26, 27, 67-69 and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunter et al. (US 5,716,981).

Hunter discloses an angiogenic composition in the form of a mesh (column 22, lines 51 and 52; Example 31), the mesh comprises polyester biodegradable copolymer such as Lactide, PLGA and polylactic oligomers and blends thereof (column 16, lines 31-56; Example 28) and therapeutic agents such as paclitaxel (Example 28). The device of claim 1 reads on the composition of Hunter.

3. Claims 1-4, 8-14, 16, 17, 26 and 67-69 rejected under 35 U.S.C. 102(b) as being anticipated by Yang et al. ("Physicochemical aspects of drug delivery and release from polymer-based colloids," in *Current Opinion in Colloid & Interface Science, Volume 5, Issues 1-2, March 2000, Pages 132-143*).

Yang describes a drug delivery device that comprises biodegradable polymer such poly(lactide-co-glycolide) matrices and the polymer is in the form of mesh, the device comprises paclitaxel as an active agent (pp 132-143).

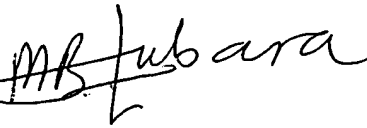
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 5:30 p.m. (Monday to Thursday).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Blessing Fubara
Patent Examiner
Tech. Center 1600

A handwritten signature in black ink, appearing to read "MB Fubara", is written over the printed name "Blessing Fubara".